

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**W.K., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Melville, NY, Employer**

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**Docket No. 16-0150  
Issued: March 22, 2016**

*Appearances:*

*Paul Kalker, Esq., for the appellant*

*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

CHRISTOPHER J. GODFREY, Chief Judge

COLLEEN DUFFY KIKO, Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On November 2, 2015 appellant, through counsel, filed a timely appeal of a September 16, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c)(1) and 501.3, the Board has jurisdiction to consider the merits of the case.

**ISSUE**

The issue is whether appellant has met his burden of proof to establish a left knee injury causally related to a February 6, 2014 employment incident.

On appeal counsel argues that appellant has established his traumatic injury claim and that "OWCP has placed an unreasonable high burden of proof upon the appellant, in requiring [him] to establish causal relationship beyond all reasonable doubt."

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

### **FACTUAL HISTORY**

On February 6, 2014 appellant, then a 61-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on the same date on February 6, 2014 he twisted his left knee while walking on uneven ice with his boots and spikes. He initially refused medical treatment. The employing establishment noted that appellant worked two days of overtime with no complaints and filed his claim after receiving a predisciplinary discussion. It provided appellant an authorization for examination and/or treatment (Form CA-16).

Appellant sought medical treatment on February 10, 2014 from Dr. John DeTrollo, an emergency physician, who diagnosed knee sprain. Dr. DeTrollo noted that appellant sustained an injury to his left knee three days previously while working. Dr. Alexander S. Finger, a Board-certified orthopedic surgeon, examined appellant on February 11, 2014. He described appellant's work injury as twisting his left knee on ice on February 6, 2014. Dr. Finger reported that appellant did not fall, but experienced pain in the medial aspect of his knee. He diagnosed grade 1 left knee medial collateral ligament sprain with a possible medial meniscal tear.

In a letter dated February 20, 2014, OWCP requested that appellant provide an additional factual statement as well as medical evidence explaining the causal relationship between appellant's diagnosed condition and his employment injury. Appellant responded on February 27, 2014 and explained that he was required to park near mounds of snow and ice along the curb when he twisted his knee. He also indicated that he did not immediately seek treatment because he was hoping to work through his injury and the remainder of his route was mostly driving. Appellant iced and wrapped his knee when he got home and took aspirin. When he returned to work after two scheduled days off, his knee pain had increased.

Appellant underwent a left knee magnetic resonance imaging (MRI) scan on March 21, 2014 which demonstrated a flap tear of the posterior horn and body of the medial meniscus with displacement of the flap component into the inframeniscal gutter. His left knee also demonstrated greater than 50 percent thinning of the articular cartilage of the medial femoral condyle and a small suprapatellar joint effusion.

By decision dated March 27, 2014, OWCP accepted the incident, but denied appellant's claim finding that he had not submitted the necessary rationalized medical opinion evidence to establish that his diagnosed condition was due to his accepted employment incident.

Appellant requested reconsideration on April 12, 2014. On March 25, 2014 Dr. Finger reviewed appellant's MRI scan results, consisting of a significant medial meniscus tear with a flap, and recommended arthroscopy on this left knee. He completed the reverse of the (Form CA-16) on March 26, 2014 and indicated by checking a box marked "yes" that appellant's condition of medial meniscal tear was due to his employment. Dr. Finger explained that appellant slipped on ice and twisted his left knee at work. He repeated these findings and conclusion on March 25 (CA-17) and April 8, 2014 (CA-20) form reports.

By decision dated August 8, 2014, OWCP declined modification of its prior decision. It noted that the medical evidence was not sufficiently well reasoned to meet appellant's burden of proof.

Counsel requested reconsideration on February 6, 2015. Dr. Jeffrey S. Muhlrud, a Board-certified orthopedic surgeon, examined appellant on September 17, 2014 due to his left knee injury sustained at work on February 6, 2014. In a report dated October 20, 2014, Dr. Muhlrud recommended arthroscopy partial medial meniscectomy for the meniscal tear. He concluded that appellant sustained a work-related injury to his left knee on February 6, 2014 and that, as appellant had no history of knee pain prior to the injury, there was a direct causal relationship between his knee pain and his work-related injury.

Dr. James M. Paci, a Board-certified orthopedic surgeon of professorial rank, completed a report on October 25, 2014. He claimed to have first examined appellant on September 24, 2014 and related appellant's employment history of twisting his left knee on ice while performing his duties as a mail carrier. Dr. Paci diagnosed left knee medial meniscus tear with unstable fragment and recommended surgery. He opined, within a reasonable degree of medical certainty, that appellant's condition was causally related to the work-related injury of February 6, 2014 which occurred while twisting his knee on ice when delivering mail.

By decision dated September 16, 2015, OWCP denied modification of its prior decisions. It found that the medical evidence submitted was insufficiently detailed and well reasoned to establish a causal relationship between appellant's diagnosed condition and his accepted employment incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of FECA and that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>2</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

OWCP defines a traumatic injury as, "[A] condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected."<sup>4</sup> To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place, and in the manner alleged.<sup>5</sup> Second, the employee must submit sufficient

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<sup>2</sup> *Kathryn Haggerty*, 45 ECAB 383, 388 (1994); *Elaine Pendleton*, 41 ECAB 1143 (1989).

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> 20 C.F.R. § 10.5(ee).

<sup>5</sup> *John J. Carlone*, 41 ECAB 354 (1989).

evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>6</sup>

A medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.<sup>7</sup> Medical rationale includes a physician's detailed opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment activity. The opinion of the physician must be based on a complete factual and medical background of the claim, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment activity or factors identified by the claimant.<sup>8</sup> The mere manifestation of a condition during a period of employment does not raise an inference that there is a causal relationship between the condition and the employment. Neither the fact that the condition became apparent during a period of employment nor the belief that the employment caused or aggravated a condition is sufficient to establish causal relationship.<sup>9</sup>

### ANALYSIS

The Board finds that this case is not in posture for a decision.

Appellant filed a claim for a traumatic left knee injury occurring on February 6, 2014. He first sought medical treatment on February 10, 2014 and provided a consistent history of injury. OWCP accepted that the employment incident occurred as alleged, but repeatedly denied appellant's claim because the medical evidence was insufficiently rationalized to establish a causal relationship between his diagnosed left knee meniscal tear and his accepted employment incident of twisting his left knee while walking on ice in the performance of his duties as a letter carrier.

In support of his claim appellant submitted three reports from Dr. Finger opining that appellant's condition of meniscal tear was due to his employment incident and describing the employment event of twisting his knee while in the performance of duty. Dr. Muhlrاد diagnosed a meniscal tear due to a work-related injury to his left knee on February 6, 2014. He found a direct causal relationship between his knee pain and the work-related incident. Dr. Paci opined that appellant's meniscal tear was causally related to a work-related injury of February 6, 2014 while twisting his knee on ice delivering mail within a reasonable degree of medical certainty.

These reports contain a history of injury, diagnosis, and an opinion that appellant's left knee condition was caused by the accepted employment incident. While these reports are not sufficient to meet his burden of proof, they provide an accurate history of injury, a consistent diagnosis of meniscal tear and a consistent finding that the twisting of the left knee on ice was

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<sup>6</sup> *J.Z.*, 58 ECAB 529 (2007).

<sup>7</sup> *T.F.*, 58 ECAB 128 (2006).

<sup>8</sup> *A.D.*, 58 ECAB 149 (2006).

<sup>9</sup> *Kathryn Haggerty*, *supra* note 2.

the cause of the injury. The Board finds these reports sufficient to require OWCP to undertake further development of his claim.<sup>10</sup>

On remand OWCP should obtain an opinion on whether the meniscal tear was causally related to the accepted employment incident. After this and such other development as it deems necessary, OWCP should issue a *de novo* decision.

### **CONCLUSION**

The Board finds that this case is not in posture for a decision.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the September 16, 2015 decision of the Office of Workers' Compensation Programs is set aside and remanded for further development consistent with this decision of the Board.

Issued: March 22, 2016  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>10</sup> *Supra* note 5 at 358-60 (1989).